



CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** Committee held on **Wednesday 15th July, 2015**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Nickie Aiken (Chairman), Heather Acton, Susie Burbridge, Melvyn Caplan, Nick Evans, Jean Paul Floru, Peter Freeman, Murad Gassanly, Angela Harvey, Tim Mitchell, Shamim Talukder and Aziz Toki

Apologies for Absence: Councillor Rita Begum, Councillor Louise Hyams and Councillor Jan Prendergast

1 MATTERS ARISING

- 1.1 The Committee paid tribute to Councillor Audrey Lewis, who had sadly died the weekend prior to the meeting. The Chairman referred to the fact that Councillor Lewis had been an outstanding Chairman of the Licensing Committee, holding the position from 2004 until she became Lord Mayor in June 2014. Included amongst her many achievements was that she had led the Licensing Service through the transition period and implementation of the Licensing Act. She had also played a leading role in the development of the Council's licensing policies which have assisted all parties in terms of clarity at Sub-Committee meetings and provided a solid foundation for defending the Sub-Committee's decisions in the appeal courts. She had continued to provide excellent advice to Members and officers alike. The Committee observed a minute's silence in memory of Councillor Lewis.
- 1.2 Councillor Murad Gassanly was welcomed as a new Member of the Licensing Committee, having formally been appointed at the Council meeting on 8 July.

2 MEMBERSHIP

- 2.1 Apologies for absence were received from Councillors Rita Begum, Louise Hyams and Jan Prendergast.

3 DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4 MINUTES

4.1 The minutes of the Licensing Committee meeting held on 11 March 2015 were agreed as a correct record and were signed by the Chairman.

5 ESTABLISHMENT OF A POOL OF MODEL CONDITIONS FOR GAMBLING PREMISES

5.1 Kerry Simpkin, Licensing Team Manager, introduced the report. It was proposed to establish a pool of model conditions for gambling premises under the Gambling Act 2005 which would mirror the approach taken for Licensing Act 2003 premises licences. These had been drawn up from existing conditions already in place on gambling premises within Westminster, from a list of conditions that the Gambling Commission has pulled together from other local authorities as best practice and also conditions officers had developed themselves to address specific issues that had been raised. These conditions would be in addition to the mandatory and default conditions specified in the Gambling Act. It would be useful to all parties involved at hearings to have a standardised wording for conditions that were appropriate to specific circumstances. Mr Simpkin added that he wished to amend the recommendation in the report. He suggested that this should be that the Committee is recommended to approve the establishment of the pool of model conditions for gambling premises as set out in Appendix A of this report and to authorise the operational Director to update and amend the model conditions as and when it is appropriate to do so.

5.2 Councillor Mitchell commented that this was a direction of travel that the Sub-Committee had been moving in for some time. He made the point that the list of model conditions used in relation to the Licensing Act 2003 was a very useful tool at Sub-Committee meetings. He requested that the proposed recommendation was tweaked so that the operational Director would consult the Cabinet Member for Public Protection (with licensing as part of the portfolio) prior to updating and amending the model conditions.

5.3 Members raised a number of matters regarding the specific conditions for gambling premises. Councillor Evans asked whether there were any 'betting tracks' in Westminster which was referred to in the mandatory conditions. Mr Simpkin replied that Lords Cricket Ground did qualify as a 'betting track' which was the case for all sports stadia. Councillor Caplan stated that he had a real difficulty with ATM facilities being physically located in a betting shop. There needed to be a view taken at Central Government level about how this could be addressed. Mr Simpkin advised that ATM facilities were permitted within betting shop premises but there was a mandatory condition that they would be located in a place that requires any customer who wishes to use them to cease gambling in order to do so. Model condition 75 was being proposed that there would be 'no cash point or ATM facilities on the premises' and could be imposed should Members of the Sub-Committee decide that there was evidence of vulnerable people at the location of the gambling premises where

an application was being considered. Councillor Evans made the point that in certain cases if there were ATM facilities outside premises there were potential issues with muggings. He expressed the view that it was a matter of judgement where ATMs should be positioned depending on the area where the betting shop was located. Councillor Burbridge asked about the significance of the proposed model condition 40. Mr Simpkin explained that 'spit kits' were DNA sampling kits in the event that staff were spat at and there would be an onus on the licensee, if the condition was imposed, to provide them within the premises and provide staff training on the use of the kits. This would potentially be trialled in Westminster.

5.4 Mr Simpkin stated that on the advice of Chris Wroe, Licensing Policy and Strategy Manager, he was suggesting that the model conditions were hence forward known as gambling model conditions or 'GMCs' to distinguish them from the model conditions used under the Licensing Act. The Committee agreed this was a good idea. Mr Wroe also suggested that it would perhaps be more appropriate for the operational Director to consult with the Chairman of the Licensing Committee when updating and amending the model conditions as the application of the conditions were a committee function. It was decided by the Committee that the operational Director would consult both the Licensing Committee Chairman and the Cabinet Member for Public Protection (both roles currently held by Councillor Aiken). The Chairman stated that introducing the model conditions at this time was particularly useful ahead of the gambling policy review.

5.5 **RESOLVED:** (i) That the establishment of the pool of model conditions for gambling premises as set out in Appendix A of this report be approved; and,

(ii) That the updating and amendment of the model conditions be delegated to the Director of Public Protection and Licensing in consultation with the Licensing Committee Chairman and Cabinet Member for Public Protection.

6 **REVIEW OF LICENSING ACT 2003 NEW AND VARIATION APPLICATION LICENSING SUB-COMMITTEE REPORT FORMAT**

- 6.1 Mr Simpkin introduced the report. At the previous Licensing Committee meeting in March 2015, Members had approved that there would be a trialling of new report formats for Licensing Sub-Committee meetings. The formats would seek to eliminate unnecessary documentation whilst providing the relevant information within the main text of the report itself. Four different report formats were produced for Sub-Committee meetings in May and June and these were included in the papers for the current meeting. Mr Simpkin stated that he wished to amend the recommendation in the report. He was requesting that Members of the Sub-Committee provide feedback on the different report formats and indicate if they have a preferred option so as to enable a final view to be taken by the Operational Director in consultation with the Chairman. He also added that it had also been resolved at the meeting in March that officers would develop a new guidance and rules document as part of the Rules of Procedure for Licensing Sub-Committee hearings and it was intended that this would be available at the next meeting in November 2015.
- 6.2 Members commented on the four report formats. Councillor Harvey expressed the view that all four report formats were an improvement in terms of clarity over the existing report format. She believed that the fourth example included in Appendix A4 of the report appeared to be the best of these. Councillor Acton also expressed the view that the fourth example included the best aspects of the existing report format and was more comprehensive in terms of clarity than the other three examples. Councillor Caplan added that the fourth example explained what was involved with the application and set out well the comments of those who had made representations. If the correct level of clarity was provided in the report, then there was less need for the applicants' representatives to describe applications in detail at Sub-Committee meetings.
- 6.3 Councillor Burbridge made the point that the reports needed to provide some explanation at the beginning as to what it was Members were required to determine. This had on occasion not been clear, at least until much of the report had been read. An emphasis was required on any changes that had taken place since the original application had been submitted. Mr Simpkin stated that it would be possible to include a couple of paragraphs at the beginning of the reports to explain exactly what was being applied for and if there had been any changes since the original application. There were often amendments to the application after the reports were published. Councillor Mitchell stated that it was useful for the licensing officers to explain any amendments at the Sub-Committee hearings in the event of late information received after reports were published. The Chairman commented that the case officers were very familiar with the applications that reached the Sub-Committee hearings and could provide this additional information. There was scope for expanding their role. Councillor Evans expressed the view that if a glossary of abbreviations was provided to those who submitted applications or made representations, it was unnecessary to duplicate the same terms in reports including 'Licensing Sub-Committee'.
- 6.4 Councillor Talukder asked whether it was possible to limit the level of e-mails and documents which were received the day prior to Sub-Committee meetings. Barry Panto, Senior Assistant Solicitor, replied that the Rules of

Procedure had been amended by the Licensing Committee in 2014 so that parties involved with an application would be expected to provide any additional information received after the published report by midday on Monday prior to the Thursday Sub-Committee meeting. It was also the case that information could not be presented at the hearing itself without the consent of other parties. It was in the discretion of Members whether information was presented to the Sub-Committee at a late stage prior to a hearing. The Licensing Act did not exclude the potential for information to be received in the twenty four hours or so leading up to a hearing. On a number of occasions it did assist the Sub-Committee if late information was received where issues were resolved between the parties involved with the application. It could be the case in these instances that the applicant's legal representative would take longer to explain an application if there was a rule in place which prevented him or her from being able to submit a document which would have clarified the situation. Members of the Sub-Committee always had the option to question why evidence was being presented at a late stage and if an adequate response was not given, they could decide that they would not have regard to it.

- 6.5 Councillor Harvey queried whether, if the deadline for information received after the report was noon on Monday, it was possible to have the information couriered to Members of the Sub-Committee before Wednesday evening. She also requested larger and colour copies of plans for applications. Mr Simpkin stated that there was the potential for including better plans in reports, potentially in A3 size and folded. Councillor Mitchell made the point that there was an issue that if papers were sent straight after the Monday lunchtime deadline, the committee officer would then potentially have to send further updates by post on the evenings prior to the Thursday meeting. With the current receipt of additional papers in the Members' Despatch on the Wednesday evening, the papers were received by Members in one bundle. Councillor Caplan added that the papers were forwarded by the committee officer electronically once he had received them and this was useful.
- 6.6 Following a suggestion by the Chairman and having received feedback from Members on the different report formats, it was agreed that the Licensing Service would produce a report in the style of option four (Appendix A4 of the report) with requested improvements. The Chairman would discuss the revised report with the other Licensing Sub-Committee Chairmen prior to a final decision being made, in consultation with the Director of Public Protection and Licensing.
- 6.7 **RESOLVED:** (i) That having received feedback from Members on the different report formats, the Licensing Service be required to produce a report in the style of option four (Appendix A4 of the report) with requested improvements; and,
- (ii) That the Chairman discuss with the other Licensing Sub-Committee Chairmen the updated option four report prior to a final decision being made in consultation with the Director of Public Protection and Licensing.

7 LICENSING APPEALS

- 7.1 The Committee received a report providing information in respect of the appeals that had been submitted in response to decisions taken by the Council. Hayley Davies, Litigation Appeals Manager, advised Members that two decisions of the Licensing Sub-Committee had been appealed and were listed for a full hearing in the Magistrates' Court. One was 8-10 Hill Street scheduled for 12 – 14 October 2015 and the other was Bow Street Hotel, 28 Bow Street which was scheduled for 2-6 November 2015. An appeal in respect of ME Hotel, 335 Strand had now been withdrawn by the Appellant. An appeal had also been withdrawn by Mr Gawdat George against the decision by the Licensing Officer Panel to revoke his licence for trading at Pitches 611, 612 and 613 in Church Street Market.
- 7.2 Ms Davies also referred to the sex establishment licensing fees case that had been heard in the Supreme Court on 13 January 2015. Judgment was delivered on 29 April and subject to one point which the Court had referred to the European Court of Justice, the City Council was successful. It was expected to be approximately twelve to eighteen months before a response was given by the European Court of Justice to the question put to them.
- 7.3 Ms Davies clarified in response to a question from Councillor Talukder that 460 appeals had been heard, settled or withdrawn (16 allowed, 11 allowed only in part, 56 dismissed, 212 withdrawn and 165 settled) since the implementation of the Licensing Act 2003. Councillor Floru asked whether it was possible to see a graph with the details of the appeals on a year by year basis. Ms Davies replied that she would be able to provide the Committee with this information.
- 7.4 **RESOLVED:** (i) That the Committee be provided with a graph with the details of the appeals on a year by year basis since the implementation of the Licensing Act 2003; and,
- (ii) That the contents of the report be noted.

8 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

- 8.1 The Committee welcomed Heidi Titcombe to the meeting. Ms Titcombe's role is Principal Solicitor and Manager (Planning, Highways and Licensing Team) following a shared legal services department being formed as part of the Tri-borough working arrangements.
- 8.2 The Chairman informed the Committee that there had been a meeting of Members and officers to discuss the statement of licensing policy review. The consultation responses received had been carefully considered and a direction of travel agreed. Mr Wroe added that it was intended that approval for the revised statement of licensing policy document would be sought from Council at the November 2015 meeting.

- 8.3 The Chairman stated that the current position regarding the Police sergeant and constable in the Westminster Police Licensing Team who had been arrested was that no charges had yet been brought against them. It was expected to be a long investigation. She had been advised that no licensing officers were suspected of conspiracy to commit misconduct in public office as part of the investigation.
- 8.4 The Chairman advised the Committee that she was introducing a dress code for Members and officers at Licensing Committee and Licensing Sub-Committee meetings. This assisted in demonstrating that the meetings were being conducted in a professional manner and that the meetings and those who attended were being treated with the necessary respect. She added that she would expect men to wear jackets and ties and women to wear suits. The Chairmen of the Licensing Sub-Committee meetings had the option to excuse a Member or officer should they feel that they were not suitably attired.
- 8.5 The Chairman referred to the fact that Councillor Burbridge had asked a question regarding City Inspectors at the meeting of Council the previous week. She advised Members that following the reorganisation process, there were 45 City Inspectors working at all times in the West End. They were not simply licensing inspectors but were involved, as part of their remit, in licensing matters. City Inspectors included those who had previously been wardens and those who had been licensing inspectors. David Hine, Acting Service Manager, added that following the restructuring, there were 6 City Inspectors who had previously been licensing inspectors working in the West End City Co-ordination Team. For the first three months, the six officers had been training their new colleagues on licensing matters. That process was now complete. There were currently 13 vacancies across the City Inspector teams, taking account of those in the West End teams and those attached to the residential and commercial teams. There was a second round of recruitment being undertaken during the current week. Once this was completed, the programme of inspections would be fully up to speed. There would be greater flexibility than previously as the City Inspectors would be working to a rota which covered every day and night of the week. The licensing inspectors had predominantly worked Thursday, Friday and Saturday nights. Councillor Burbridge expressed some concerns that the licensing inspectors who had left had built up working relationships over a number of years with licensed premises. She sought confirmation that the training given to the City Inspectors was comprehensive. The Chairman assured her that the training had been very robust and that she had been involved with the process. The new regime would be of benefit to the running of the West End with City Inspectors operating seven nights a week rather than Thursday, Friday and Saturday nights. The feedback she was receiving was that the new City Inspectors had hit the ground running. They did need to gain experience but this was being gained on the job and they were working with knowledgeable and experienced former licensing inspectors. Councillor Acton asked Mr Hine whether other areas away from West End such as Edgware Road were being adequately covered by the City Inspectors. Mr Hine confirmed that they would operate effectively throughout the borough.

9 FUTURE LICENSING COMMITTEE MEETING DATES

9.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 18 November 2015 and Wednesday 9 March 2016. Both meetings are scheduled for 10.00am.

The Meeting ended at 10.53 am

CHAIRMAN: _____

DATE _____